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Control #: 202403010583
Index #: E2024003035

Date: 03/01/2024

Dias, Liyanagamage Ranganath Prabashwara

Time: 11:47:00 AM

University of Rochester

Total Fees Paid: $0.00

Employee:

State of New York

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JAMIE ROMEO

MONROE COUNTY CLERK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

In the matter of the Application of Liyanagamage Ranganath Prabashwara Dias, Petitioner, -against- UNIVERSITY OF ROCHESTER, Respondent. For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules	INDEX NO.: E2024003035 Honorable Sam Valleriani ADDITIONAL AFFIRMATION OF J MORGAN LEVY IN SUPPORT OF ORDER TO SEAL

J. Morgan Levy, an attorney admitted to practice in the courts of the State of New York, affirms, under penalty of perjury pursuant to CPLR 2106, the following:

1. I am not a party to this action.

2. I represent the petitioner, Liyanagamage Ranganath Prabashwara Dias ("Dr. Dias"), in the above captioned case.

3. I am fully competent to make this affirmation and I have personal knowledge of the facts stated in this affirmation.

4. I write this affirmation in support of sealing the documents affiliated with this article 78 verified petition.

5. Exhibit #L (NYSCEF doc. #17, draft Investigation report) and any responses, including Mr. Dias', in NYSCEF E2024003035 explicitly discuss proprietary scientific research.

6. These draft Investigation report and responses also include confidential information, as defined by the National Science Foundation (NSF), the funding source of the research being investigated.

7. As an awardee institution, the University is obligated to investigate the alleged conduct in accordance with NSF policy and standards. *See* Exhibit A. Specifically, "[b]ecause a professional reputation is involved, fairness, due process, and confidentiality should be considered paramount" throughout the process.

8. According to NSF's directive letter to Dr. Dias and the University, the University must keep all materials confidential. Specifically, the letter states, according to 45 CFR § 689.4(a)(3)-(4), "[a]ny information you acquire during your investigation, including any information we may provide to you, should be kept strictly confidential." Exhibit A.

9. The subject matter of Mr. Dias' request to seal all records related to this Article 78 proceedings is the very same investigation and confidential material prohibited from disclosure by the NSF.

10. Failure to seal these records is a breach of the University's legal obligations under NSF standards and rules.

Dated: March 1, 2023
Monroe County, New York

Respectfully submitted,

J. MORGAN LEVY FIRM PLLC

By: */s/ J. Morgan Levy*

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